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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,730	05/03/2005	Nicolaas Lambert	NL 021075	6084
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EXAMINER SHEN, KEZHEN				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/533,730

Applicant(s)

LAMBERT ET AL.

Examiner

Kezhen Shen

Art Unit

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 5, 12-16, 18-24 and 26-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 5, 12-16, 18-24 and 26-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Request for Continued Examination

A Request for Continued Examination (RCE) under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/18/2009 has been entered.

Response to Arguments

Applicant's arguments with respect to claims 1, 5, 12-16, 18-24 and 26-30 have been considered but are moot in view of the new ground(s) of rejection.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir.

1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 16 and 24 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 4-6 and 14 of U.S. Patent No. US 7,538,787 B2 in view of Iida et al. US 2002/0012315 A1 and Levich et al. US 2002/010588 A1.

Regarding claims 1, 16 and 24, Lambert et al. '787 claims a record carrier adhering to a pre-defined, standardized condition with respect to a physical parameter, characterized in that the method comprises the following steps: retrieving label information, retrieving parameter information on the physical parameter, which parameter information is of a higher precision than the precision of the physical parameter mentioned in the pre-defined, standardized condition, writing the label information on the record carrier using the parameter information. Lambert et al. '787

fails to teach the parameter information being track pitch, channel bit length and inner radius.

However, lida et al. teach parameter information to include track pitch and channel bit length (Fig. 2, [0150]) and Levich et al. teach parameter information to include track pitch and channel bit length ([0005] Table 1). Therefore, it would have been obvious to one of ordinary skill in the art the doubling patenting between the present application and US 7,538,787 in view of lida et al. US 2002/0012315 A1 and Levich et al. US 2002/010588 A1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 12-14, 24, 26 and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over lida et al. US 2002/0012315 A1 and Hansel et al. 5,941,649 and further in view of Ito et al. 5,608,717.

Regarding claim 1, lida et al. teach a record carrier (Fig. 1A – 1D) comprising an area for storing data (Figs. 1A – 1D [0149] high density area and standard density area), the area comprising a pattern of tracks ([0013]) for storing the data in the form of marks ([0013]), the record carrier adhering to a pre-defined ([0014] CD standard), standardized condition with respect to a track pitch ([0153] standard track pitch),

wherein the record carrier comprises an area for storing higher precision parameter information (Fig. 2, [0150] – [0160]), which parameter information is of a higher precision than the precision of the track pitch mentioned in the pre-defined standardized condition (Figs. 1A – 1D, [0146] – [0159]), when expressed in micrometer (Fig. 2, track pitch in μm), is expressed in two decimals (Fig. 2, track pitch is 1.10 μm), and that higher precision track pitch parameter information stored on the record carrier (Fig. 2, [0150] - [0160]), when expressed in micrometer (Fig. 2, track pitch in μm), physical parameter mentioned in the pre defined, standardized condition (Fig. 2, [0150] – [0160]). lida et al. fails to teach track pitch being expressed is indicated in at least three decimals.

Hansel et al. discloses the method of increasing the printing device to increase the decimal places of a device from the default of four or less to six or more (Col 3 Lines 5-24). One of ordinary skill in the art, would have recognized the improvement of methods for increasing the decimal count for increased accuracy as taught by Hansel et al. and for improving the precision of decimal points of the track pitch as taught by lida et al. The use of known techniques to improve similar methods in the same way rationale hereinabove is consistent with the criteria articulated in KSR International Co. v. Teleflex Inc., 82 USPQ2d 1385 (U.S. 2007).

Both lida et al. and Hansel et al. fail to teach a record carrier, characterized in that the parameter information is to be used for assisting writing a visible label on the record carrier.

However, Ito et al. does. Ito et al. teach the forming of a character/graphic on a CD-ROM with the assistance of parameter data (14 of Fig. 1, Col 10 Line 24 – Col 11 Line 29). Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings of the record carrier as taught by Iida et al. and Hansel et al. with the teachings of writing a label on the record carrier with parameter information as taught by Ito et al. as a whole for the benefit of identifying illegal duplication of CD-ROMs (Ito et al. Col 10 Lines 50-56).

Regarding claims 12 and 27, Iida et al. teach a record carrier, wherein the pattern of substantial parallel tracks exhibits a continuous sinusoidal deviation of the track from the average centerline (Fig. 7, [0188] - [0190]), a so-called wobble ([0188] – [0191]), the parameter information being stored in the wobble (Fig. 13, [0208] supplemental information).

Regarding claim 13 and 28, Iida et al. teach a record carrier, wherein the pattern of substantial parallel tracks comprises grooves and lands ([0188] – [0191]), the grooves being wobbled guidance tracks (Fig. 7, [0188] – [0191]), the lands being the areas between the grooves (L and G of Fig. 7), the parameter information being stored in pits embossed on the lands ([0022], [0028], [0522] physical characteristic information), so-called pre-pits ([0022], [0522] embossed pit area).

Regarding claim 14 and 29, Iida et al. teach a record carrier, wherein the parameter information is stored in a pre-defined data field on the record carrier (Fig. 2, Fig. 13, [0150] – [0160], [0522]).

Regarding claim 24, lida et al. teach a record carrier (Fig. 1A – 1D) comprising an area for storing data (Figs. 1A – 1D [0149] high density area and standard density area), the area comprising a pattern of tracks ([0013]) for storing the data in the form of marks ([0013]), the record carrier adhering to a pre-defined ([0014] CD standard), standardized condition with respect to an inner radius ([0501] - [0504]), wherein the record carrier comprises an area for storing higher precision parameter information (Fig. 2, [0150] – [0160]), which parameter information is of a higher precision than the precision of the track pitch mentioned in the pre-defined standardized condition (Figs. 1A – 1D, [0146] – [0159]). lida et al. fails to teach track pitch being expressed is indicated in at least two decimals.

Hansel et al. discloses the method of increasing the printing device to increase the decimal places of a device from the default of four or less to six or more (Col 3 Lines 5-24). One of ordinary skill in the art, would have recognized the improvement of methods for increasing the decimal count for increased accuracy as taught by Hansel et al. and for improving the precision of decimal points of the track pitch as taught by lida et al. The use of known techniques to improve similar methods in the same way rationale hereinabove is consistent with the criteria articulated in KSR International Co. v. Teleflex Inc., 82 USPQ2d 1385 (U.S. 2007).

Both lida et al. and Hansel et al. fail to teach a record carrier, characterized in that the parameter information is to be used for assisting writing a visible label on the record carrier.

However, Ito et al. does. Ito et al. teach the forming of a character/graphic on a CD-ROM with the assistance of parameter data (14 of Fig. 1, Col 10 Line 24 – Col 11 Line 29). Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings of the record carrier as taught by Iida et al. and Hansel et al. with the teachings of writing a label on the record carrier with parameter information as taught by Ito et al. as a whole for the benefit of identifying illegal duplication of CD-ROMs (Ito et al. Col 10 Lines 50-56).

Regarding claim 26, Iida et al. teach a record carrier according to claim 16, wherein the record carrier is a DVD-RW disc or a DVD+RW disc ([0500] – [0501]). Iida et al., Hansel et al. and Levich et al. all fail to teach the inner radius is 24.0 mm.

However, Examiner takes Official Notice. It is well known to one of ordinary skill in the art that the inner radius of a DVD-RW or DVD+RW start at 24.0 mm in accordance to the standards set.

Claims 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iida et al. US 2002/0012315 A1, Hansel et al. 5,941,649 and Ito et al. 5,608,717 and further in view of Levich et al. US 2002/010588 A1.

Regarding claim 5, both Iida et al. and Hansel et al. fail to teach a record carrier according to claim 1, characterized in that the record carrier is a DVD-RW disc or a DVD+RW disc, and the average track pitch is 0.74 μm .

However Levich et al. disclosed the standard physical parameters of a track pitch to be 0.74 μm (Levich et al. [0005] Table 1). Therefore, it would have been obvious to one of ordinary skill in the art to set the average track pitch to 0.74 μm because the

track pitch of a standard DVD is 0.74 μm (Levich et al. [0005] Table 1). Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings of both lida et al. and Hansel et al. and Levich et al. to create the record carrier to be of the specific parameters because they are a set standard for DVDs.

Claims 15 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over lida et al. US 2002/0012315 A1 and Hansel et al. 5,941,649 and further in view of Ito et al. 5,608,717. and further in view of Brollier US 2004/0052202 A1.

Regarding claim 15 and 30, both lida et al. and Hansel et al. fail to teach a record carrier according to claim 1, characterized in that the record carrier comprises a further area comprising an integrated circuit, the parameter information being stored in the integrated circuit.

However, Brollier does. Brollier teaches a disc with an integrated circuit storing data (22 of Fig. 1, [0045]). Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings of the record carrier as taught by lida et al. and Hansel et al. with the teachings of the integrated circuit on the optical disc as taught by Brollier as a whole for the benefit of preventing unauthorized copying or securing information on the disc (Brollier, [0045]).

Claim 16 and 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over lida et al. US 2002/0012315 A1, Hansel et al. 5,941,649, Levich et al. US 2002/010588 A1 and further in view of Ito et al. 5,608,717.

Regarding claim 16, lida et al. teach a record carrier (Fig. 1A – 1D) comprising an area for storing data (Figs. 1A – 1D [0149] high density area and standard density

area), the area comprising a pattern of tracks ([0013]) for storing the data in the form of marks ([0013]), the record carrier adhering to a pre-defined ([0014] CD standard), standardized condition with respect to a channel bit length, wherein the record carrier comprises an area for storing higher precision parameter information (Fig. 2, [0150] – [0160]), which parameter information is of a higher precision than the precision of the pre-defined standardized condition (Figs. 1A – 1D, [0146] – [0159]), when expressed in nanometer, is expressed in one decimal, and that higher precision channel bit length parameter information on the channel bit length stored on the record carrier, when expressed in nanometer, is indicated in at least two decimals. lida et al. fail to teach channel bit length as a standardized condition stored in the parameter information expressed in nanometers with at least two decimals.

However Levich et al. disclosed the standard physical parameters of a channel bit length to be in nm (Levich et al. [0005] Table 1). Therefore, it would have been obvious to one of ordinary skill in the art to include channel bit length as taught by Levich et al. with the teachings of the record carrier as taught by lida et al. as a whole. Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings of both lida et al. and Hansel et al. and Levich et al. to create the record carrier to be of the specific parameters because they are a set standard for DVDs.

Hansel et al. discloses the method of increasing the printing device to increase the decimal places of a device from the default of four or less to six or more (Col 3 Lines 5-24). One of ordinary skill in the art, would have recognized the improvement of methods for increasing the decimal count for increased accuracy as taught by Hansel et

al. and understood the benefit for improving the precision of decimal points of the channel bit length as taught by lida et al. and Levich et al. The examiner understand Hansel et al. is not relevant art, however the examiner is only improving upon the method of increasing decimal places for precision and not for the apparatus disclosed. The use of known techniques to improve similar methods in the same way rationale hereinabove is consistent with the criteria articulated in KSR International Co. v. Teleflex Inc., 82 USPQ2d 1385 (U.S. 2007).

Both lida et al., Levich et al and Hansel et al. fail to teach a record carrier, characterized in that the parameter information is to be used for assisting writing a visible label on the record carrier.

However, Ito et al. does. Ito et al. teach the forming of a character/graphic on a CD-ROM with the assistance of parameter data (14 of Fig. 1, Col 10 Line 24 – Col 11 Line 29). Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings of the record carrier as taught by lida et al. and Hansel et al. with the teachings of writing a label on the record carrier with parameter information as taught by Ito et al. as a whole for the benefit of identifying illegal duplication of CD-ROMs (Ito et al. Col 10 Lines 50-56).

Regarding claim 18, lida et al. teach a record carrier according to claim 16, wherein the record carrier is a DVD-RW disc or a DVD+RW disc ([0500] – [0501]). lida et al., Hansel et al. and Levich et al. all fail to teach the inner radius is 24.0 mm.

However, Examiner takes Official Notice. It is well known to one of ordinary skill in the art that the inner radius of a DVD-RW or DVD+RW start at 24.0 mm in accordance to the standards set.

Regarding claim 19, lida et al. fail to teach a record carrier according to claim 16, wherein the record carrier is a DVD-RW disc or a DVD+RW disc, and the average channel bit length is 133.3 nm.

However Levich et al. disclosed the standard physical parameters of a channel bit length to be 133 nm (Levich et al. [0005] Table 1). Therefore, it would have been obvious to one of ordinary skill in the art to set the average channel bit length to 133 nm because the channel bit length of a standard DVD is 133.3 nm (Levich et al. [0005] Table 1). Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings of both lida et al. and Levich et al. to create the record carrier to be of the specific parameters because they are a set standard for DVDs.

Regarding claim 20, lida et al. teach a record carrier according to claim 1, wherein the pattern of substantial parallel tracks exhibits a continuous sinusoidal deviation of the track from the average centerline (Fig. 7, [0188] - [0190]), a so-called wobble ([0188] – [0191]), the parameter information being stored in the wobble (Fig. 13, [0208] supplemental information).

Regarding claim 21, lida et al. teach a record carrier according to claim 1, wherein the pattern of substantial parallel tracks comprises grooves and lands ([0188] – [0191]), the grooves being wobbled guidance tracks (Fig. 7, [0188] – [0191]), the lands being the areas between the grooves (L and G of Fig. 7), the parameter information

being stored in pits embossed on the lands ([0022], [0028], [0522] physical characteristic information), so-called pre-pits ([0022], [0522] embossed pit area).

Regarding claim 22, lida et al. teach a record carrier according to claim 1, wherein the parameter information is stored in a pre-defined data field on the record carrier (Fig. 2, Fig. 13, [0150] – [0160], [0522]).

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over lida et al. US 2002/0012315 A1, Hansel et al. 5,941,649 and Levich et al. US 2002/010588 A1. as applied to claim 1 above, and further in view of Ito et al. 5,608,717.

Regarding claim 17, both lida et al., Levich et al and Hansel et al. fail to teach a record carrier according to claim 1, characterized in that the parameter information is to be used for assisting writing a visible label on the record carrier.

However, Ito et al. does. Ito et al. teach the forming of a character/graphic on a CD-ROM with the assistance of parameter data (14 of Fig. 1, Col 10 Line 24 – Col 11 Line 29). Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings of the record carrier as taught by lida et al. and Hansel et al. with the teachings of writing a label on the record carrier with parameter information as taught by Ito et al. as a whole for the benefit of identifying illegal duplication of CD-ROMs (Ito et al. Col 10 Lines 50-56).

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over lida et al. US 2002/0012315 A1, Hansel et al. 5,941,649 and Levich et al. US 2002/010588 A1. and further in view of Brollier US 2004/0052202 A1.

Regarding claim 23, Iida et al., Hansel et al. and Levich et al. all fail to teach a record carrier according to claim 1, characterized in that the record carrier comprises a further area comprising an integrated circuit (7), the parameter information being stored in the integrated circuit.

However, Brollier does. Brollier teaches a disc with an integrated circuit storing data (22 of Fig. 1, [0045]). Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings of the record carrier as taught by Iida et al. and Hansel et al. with the teachings of the integrated circuit on the optical disc as taught by Brollier as a whole for the benefit of preventing unauthorized copying or securing information on the disc (Brollier, [0045]).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kezhen Shen whose telephone number is (571) 270-1815. The examiner can normally be reached on Monday-Friday 10am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kazhen Shen/
Examiner, Art Unit 2627

/Joseph H. Feild/
Supervisory Patent Examiner, Art
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